

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT T. KELLY and ELIZABETH
KELLY,

Plaintiffs,

v.

CHASE HOME FINANCE LLC, et al.,

Defendants.

CASE NO. 3:13-cv-05029-RBL

ORDER AND GRIEVANCE

On May 23, 2013, the Court ordered Plaintiff's counsel to show cause why the case should not be dismissed for failure to prosecute. Counsel had filed the suit and then failed to participate in initial disclosures, failed to follow through on a promise to dismiss a party that he conceded should have been dismissed, and failed to properly serve Defendants. Mr. Penfield's behavior was not new. He received show cause orders for similar conduct in *Alexander v. JP Morgan Chase Bank*, No. 12-cv- 1629-RSL (Dkt. #11) and *Alexander v. JP Morgan Chase Bank*, No. 12-cv-1791-RAJ, both of which went unanswered.

A cursory review of the filings in this District disclosed two additional cases following the same script: file a case on behalf of a client facing foreclosure, do nothing else, and have the

1 case dismissed for failure to prosecute. *See Hansen v. Deutsche Bank National Trust Co.*, No.
2 12-cv-0535-JCC (Dkt. #8) and *Fagerlie v. Opus Bank*, No. 12-cv-1386-JCC (Dkt. #19).

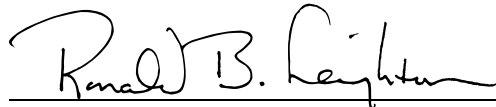
3 In response to the Court's Order to Show Cause, Plaintiff's counsel blamed an employee
4 and a divorce for his repeated misconduct. (Counsel's Resp., Dkt. #12.) The Court then ordered
5 Plaintiff's counsel to pay a \$250 sanction and participate in the filing of a new Joint Status
6 Report within 30 days. Defendants represent that Plaintiff's counsel has **ignored** that Order.
7 (Def.'s Second Status Report, Dkt. #15.)

8 Pursuant to Local Rule 83.3(c), this Court recommends that Mr. Penfield either be
9 disbarred or suspended from practice within the Western District of Washington for contempt of
10 Court and for violations of the Standards of Professional Conduct (specifically, Washington
11 Rules of Professional Conduct 1.1; 1.3; 3.2; 8.4(j), (n)).

12 This case is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute.

13 Defense counsel are hereby **ORDERED** to use reasonable means to send Plaintiffs a
14 copy of this Order directly to ensure that they are aware of the dismissal and the sanctions
15 against their attorney.

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17 Dated this 23rd day of July, 2013.

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20 RONALD B. LEIGHTON
21 UNITED STATES DISTRICT JUDGE
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